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ON PETITION

PAUL L BROWN
EMRICH AND DITHMAR
SUITE 3000
300 SOUTH WACKER DRIVE
CHICAGO IL 60606



In re Application of
Robert M. Lundberg.
Application No. 08/904,299
Filed: July 31, 1997
Attorney Docket No: 101AB

This is a decision on the petition filed February 25, 2002 by facsimile transmission and followed up with hard copy March 11, 2002 filed by first class mail. The petition seeks to have the abandonment withdrawn and is thus treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is GRANTED.

This application became abandoned on October 28, 2001, for failure to file a timely response to the Final Office Action mailed July 27, 2001, which set a three (3) month statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner asserts that the Final Office Action was never received.

Although, all documents filed by the applicant always listed the correspondence address as PAUL L BROWN, EMRICH AND DITHMAR, SUITE 3000, 300 SOUTH WACKER DRIVE, CHICAGO, IL 60606, a data entry error on the part of the USPTO entered the address with a suite number of "300" instead of "3000". And, although all correspondence from the USPTO to the applicants always bore an incorrect suite number, applicants always seemed to receive the mail even with the incorrect address on it. However, petitioners should not have to bear the brunt of the errors caused by the USPTO and thus, in view of the facts set forth in the petition, it is concluded that the Office Action was incorrectly addressed and never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

The address has been corrected to include the correct suite number.

This matter is being referred to Technology Center 3747 for a re-mailing of the Final Office Action and for a restarting of the period for response.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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